

CASE

NUMBER:

99-396

INDEX FOR CASE: 1999-396
GTE SOUTH, INC.
Interconnection Agreements
WITH TRITEL COMMUNICATIONS, INC.

IN THE MATTER OF THE 252(I) ADOPTION LETTER BETWEEN GTE
SOUTH INCORPORATED AND TRITEL COMMUNICATIONS, INC.

SEQ NBR	ENTRY DATE	REMARKS
0001	09/22/1999	Application.
0002	09/28/1999	Acknowledgement letter.
0003	12/14/1999	Final Order approving agreement.



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

CERTIFICATE OF SERVICE

RE: Case No. 1999-396
GTE SOUTH, INC.

I, Stephanie Bell, Secretary of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the following by U.S. Mail on December 14, 1999.

Parties of Record:

Larry D. Callison
State Manager-Regulatory Affairs
GTE South, Inc.
150 Rojay Drive
Lexington, KY. 40503

Mr. Roland Patterson
Vice President - Network Systems
Tritel Communications, Inc.
111 East Capitol Street, Suite 500
Jackson, MS. 39201

Stephan Bell

Secretary of the Commission

SB/hv
Enclosure

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REVIEW OF AN AGREEMENT)
BETWEEN GTE SOUTH INCORPORATED) CASE NO. 99-396
AND TRITEL COMMUNICATIONS, INC.)
PURSUANT TO 47 U.S.C. 252(i))

O R D E R

On September 22, 1999, GTE South Incorporated ("GTE") and Tritel Communications, Inc. ("Tritel") submitted to the Commission their negotiated agreement for the interconnection of their networks. Tritel is purporting to adopt the interconnection agreement between GTE and Powertel, Inc. ("Powertel"), which was approved by the Commission in Case No. 98-414.¹ The adoption letter (which appears to comprise the only document memorializing the parties' principal agreement) was negotiated pursuant to the Telecommunications Act of 1996 ("1996 Act"), 47 U.S.C. Sections 251 and 252. Section 252(e) of the 1996 Act requires the parties to an interconnection agreement adopted by negotiation to submit the agreement for approval to the Commission.

The Commission has reviewed the agreement and finds that no portion thereof discriminates against a telecommunications carrier not a party to the agreement. The Commission is hesitant, however, to find that the implementation of the agreement is

¹ Case No. 98-414, Approval of the Interconnection Agreement Between GTE South Incorporated and Powertel, Inc. Pursuant to Sections 251 and 252 of the Telecommunications Act of 1996. (Order dated September 18, 1998).

consistent with the public interest, convenience, and necessity without informing Tritel that it is entitled to adopt the Powertel agreement in its entirety.

Tritel must comply with all relevant Commission mandates for serving in this Commonwealth.

The Commission, having been otherwise sufficiently advised, HEREBY ORDERS that:

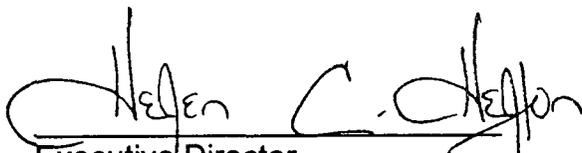
1. Subject to Tritel's notification to the Commission within 10 days of the date of this Order that it desires to exercise its legal right to revoke this agreement and adopt the entire Powertel agreement, this agreement negotiated between GTE and Tritel is approved.

2. Tritel shall file a tariff for local service prior to providing local service giving 30 days' notice to the Commission and shall comply with all Commission regulations and orders as directed.

Done at Frankfort, Kentucky, this 14th day of December, 1999.

By the Commission

ATTEST:


Executive Director



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

September 28, 1999

Larry D. Callison
State Manager-Regulatory Affairs
GTE South, Inc.
150 Rojay Drive
Lexington, KY. 40503

Mr. Roland Patterson
Vice President - Network Systems
Tritel Communications, Inc.
111 East Capitol Street, Suite 500
Jackson, MS. 39201

RE: Case No. 99-396
GTE SOUTH, INC.
(Interconnection Agreements) WITH TRITEL COMMUNICATIONS, INC.

This letter is to acknowledge receipt of initial application in the above case. The application was date-stamped received September 22, 1999 and has been assigned Case No. 99-396. In all future correspondence or filings in connection with this case, please reference the above case number.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,
Stephanie Bell

Stephanie Bell
Secretary of the Commission

SB/jc

Larry D. Callison
State Manager
Regulatory Affairs & Tariffs



**GTE Service
Corporation**

KY10H072
150 Rojay Drive
Lexington, KY 40503
606 245-1389
Fax: 606 245-1721

September 22, 1999

Ms. Helen Helton
Executive Director
Public Service Commission
730 Schenkel Lane
Post Office Box 615
Frankfort, Kentucky 40602

RECEIVED
SEP 22 1999
PUBLIC SERVICE
COMMISSION

RE: 252(i) Adoption Letter Between GTE South Incorporated and
Tritel Communications, Inc.

99-396

Dear Ms. Helton:

Enclosed for joint filing by the parties with the Kentucky Public Service Commission (Commission) are six copies of an executed 252(i) Adoption Letter recently executed between GTE South Incorporated and Tritel Communications, Inc.

This Adoption Letter is being provided to the Commission for its review and approval.

Please bring this filing to the attention of the Commission, and if there are any questions, please contact me at your convenience.

Yours truly,

Larry D. Callison

Enclosures

c: Mr. Roland Patterson - Tritel Communications, Inc.

Connie Nicholas
Assistant Vice President
Wholesale Markets-Interconnection



GTE Network
Services

HQE03B28
600 Hidden Ridge
P.O. Box 152092
Irving, TX 75038
972/718-4586
FAX 972/719-1523

September 7, 1999

Mr. Roland Patterson
Vice President – Network Systems
Tritel Communications, Inc.
111 East Capitol Street, Suite 500
Jackson, MS 39201

RECEIVED
SEP 22 1999
PUBLIC SERVICE
COMMISSION

Dear Mr. Patterson:

We have received a letter from your counsel, Mr. Gerry, stating that, under Section 252(i) of the Telecommunications Act of 1996, you wish to adopt the terms of the Interconnection Agreement between Powertel, Inc. and GTE that was approved by the Commission as an effective agreement in the State of Kentucky in Docket No. 98-414 (Terms).¹

Please be advised that our position regarding the adoption of the Terms is as follows.

The provisions of the Terms that might be interpreted to require reciprocal compensation from GTE to Tritel for the delivery of traffic to the Internet (ISP Traffic) are not available for adoption and are not a part of these 252(i) terms pursuant to FCC Rule 809 and paragraphs 1317 of the FCC's interconnection First Report and Order (FCC 96-325).

FCC Rule 809 gives the ILECs the ability to except 252(i) adoptions in those instances where the cost of providing the service to the requesting carrier is higher than that incurred to serve the initial carrier or there is a technical incompatibility issue. The issue of reciprocal compensation for traffic destined for the Internet falls within FCC Rule 809. GTE never intended for Internet traffic passing through a CLEC to be included within the definition of local traffic and the corresponding obligation of

¹ * These "agreements" are not agreements in the generally accepted understanding of that term. GTE was required to accept these agreements, which were required to reflect the then-effective FCC rules.

Mr. Patterson
September 7, 1999
Page 2

reciprocal compensation. Despite the foregoing, some forums have interpreted the issue to require reciprocal compensation to be paid. This produces the situation where the cost of providing the service is not cost based under Rule 809 or paragraph 1318 of the First report and Order. As a result, that portion of the Terms that would provide reciprocal compensation or payment as local traffic for ISP Traffic is not available under this 252(i) adoption. In its place are provisions that exclude ISP Traffic from reciprocal compensation. Specifically, the definition of "Local Traffic" includes this provision: "Local Traffic excludes information service provider ("ISP") traffic (i.e., Internet, 900 - 976, etc)"

Tritel's adoption of the Powertel Terms shall become effective upon filing of this letter with the Kentucky Public Service Commission and remain in effect no longer than the date the Powertel Terms are terminated.

As these Terms are being adopted by you pursuant to your statutory rights under section 252(i), GTE does not provide the Terms to you as either a voluntary or negotiated agreement. Nevertheless, the Parties agree that the Terms shall govern the interconnection arrangements between Tritel and GTE. The filing and performance by GTE of the Terms does not in any way constitute a waiver by GTE any claim it may have with respect to the 252(i) process, nor does it constitute a waiver of GTE's right to seek review of any Terms that are interpreted contrary to the law.

GTE contends that the pricing provisions of the Terms may be void or unenforceable as a result of the United States Eighth Circuit Court of Appeals July and October, 1997 decisions, the Supreme Court of the United States' decision of January 25, 1999 and the remand of the pricing rules to the United States Eighth Circuit Court of Appeals; therefore, GTE reserves its rights to seek appropriate legal and/or equitable relief with respect to such terms. Should any provision of the Terms be modified, such modification would likewise automatically apply to this 252(i) adoption.

Please review by your countersignature on this letter your understanding of and agreement to the following three points:

- A. **Tritel adopts** the Terms of the Powertel Terms for interconnection with **GTE and in** applying the Terms, agrees that "Tritel" be substituted in place of "Powertel" throughout the Terms.
- B. **Tritel requests** that notice to Tritel as may be required under the Terms shall be provided as follows:

To: Tritel Communications, Inc.
Attention: Mr. Roland Patterson
Vice President - Network Systems
111 East Capitol Street, Suite 500
Jackson, MS 39201
Telephone number: 601-898-6208
FAX number: 601-914-8285

- C. **Tritel represents** and warrants that it is a CMRS carrier authorized to provide service in the State of Kentucky, and that its adoption of the Terms will cover services in the State of Kentucky only.

Sincerely,

GTE South Incorporated



Corrie Nicholas
Assistant Vice President
Wholesale Markets Interconnection

Reviewed and countersigned as to points A, B, and C:

Tritel Communications, Inc.



Roland Patterson
Vice President - Network Systems